

## **REMARKS**

In the Final Office Action mailed on July 18, 2008, claims 139-191 are pending and rejected. Claims 139, 149, 157, 166, 175, and 184 are presently amended. In light of the amendments and the arguments and comments below, reconsideration and allowance of the present application is respectfully requested.

As a preliminary matter, the Examiner's attention is directed to the incorrect filing date of June 15, 2004 set forth on the cover of the Final Office Action. Attached hereto is a copy of a Decision on Renewed Petition under 37 CFR 1.10(d), granting that the subject application be accorded a filing date of June 14, 2004. (See Conclusion, Page 2 of Decision of Renewed Petition). It is respectfully requested that this modification to the filing date be integrated into the record for the subject application.

### Claim Rejections – 35 U.S.C. §103

In the Office Action, the Examiner rejected claims 139, 140, 141/139, 141/140, 142, 143/139, 143/140, 147/139, 147/140, 148, 149, 150, 151/149, 151/150, 152, 155/149, 155/150, 156, 157, 158, 159/157, 159/158, 160, 163/157, 163/158, 164, 165/157, 165/158, 166, 167, 168/166, 168/167, 169, 172/166, 172/167, 173, 174/166, 174/167, 175, 176, 177/175, 177/176, 178, 181/175, 181/176, 182, 183/175, 183/176, 184, 185, 186/184, 186/185, 187, 190/184, 190/185 and 191, under 35 U.S.C. 103(a) as being unpatentable over Strandberg (US 6,054,999), and further in view of Kakiyama et al. (US 5,600,767). Applicant respectfully disagrees with the Examiner's assessment of the cited references and the combinability of these references within the present obviousness rejection. Applicant further submits that the present claims include limitations that are not taught or suggested by the combination of the cited references. Therefore, because numerous differences exist between the claimed invention and the cited prior art, a *prima facie* case of obviousness does not exist for the claims under §103(a).

The present claim amendments further distinguish the claimed invention from the combination of references, and particularly the computer supported animation system disclosed in Strandberg. As explained in Page 1, paragraph 3 of the present invention specification, one of the problems to be overcome with the present invention is to acquire and display an image with a "minimum of bandwidth, processing capacity or data storage." As also explained in page 2,

paragraph 3, and page 27, paragraph 3, such an image may be deployed within the low-bandwidth limitations of a mobile text message communication. There is a clear incompatibility of the Strandberg and Kakiyama teachings with use of a device (such as a mobile phone) which has limited processing capabilities and a communications channel with limited bandwidth.

As explained within the Applicant's previous response, there are numerous differences between the claimed structure of the present invention and the system disclosed in the cited references. The claimed invention utilizes a significantly different process to assemble animated images and specify the animation properties than does the system of Strandberg. The system in Strandberg requires significant processor capabilities to process the movements of a human actor and to convert the movements into a cartoon image. These movements are captured with high-resolution CCD cameras, numerous recording sensors (with 25-29 recordings per second), and computers capable of translating 3 dimensional models (such as the use of dedicated graphic computers). In contrast, the claimed invention recites the use of a device having "limited processing capabilities," and signals transmitted to this device "via a communications channel with limited bandwidth."

The Strandberg reference expressly discloses extensive requirements for its movement recording system within Col. 12, lines 16-22. This disclosure teaches away from any type of "limited processing" or "limited bandwidth" application as claimed within the present invention. Likewise, the Kakiyama reference fails to disclose how its image creation device could be adapted to perform in a low processing or low bandwidth system. As previously explained, one specific application requiring low-bandwidth and low-processor needs is the display on mobile phones and other handheld devices. This is plainly distinguishable from combining portions of human images on a dedicated hardware device as disclosed in Kakiyama, and producing animations from human movement patterns using high-powered devices as disclosed in Strandberg.

The present invention relates to a method of assembling an animated image from a number of pieces in a low bandwidth and/or low processing environment. In other words, the image is constructed from individual components and built up into an animated image. The combination of references still fails to teach or suggest to one of ordinary skill in the art (i) how an animation property can be specified from a number of available properties; (ii) how each property may be associated with a parameter value, or (iii) how this parameter value may be

allowed to be varied. The present invention enables variation of previously identified parts and parameters, in contrast to parameters that are captured and not variable (such as from a recording of human movement in Strandberg or a synthesized composition of human part images as in Kakiyama). The combination of these references fails to teach the whole of these claimed features, particularly in a bandwidth- or processing-limited settings.

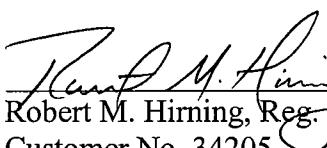
Based on at least the reasons above, Applicant submits that the cited references alone or in combination do not provide sufficient teaching to render the claims obvious to one of ordinary skill in the art. Furthermore, any dependent claims depend from the independent base claims are allowable for at least the reasons discussed above. Applicant requests withdrawal of the rejection under §103(a), and respectfully submits that all claims are allowable over the prior art of record.

## CONCLUSION

In light of the above amendments and arguments, Applicant asserts that the invention as claimed is both novel and non-obvious over the prior art. It is respectfully requested that the Examiner will find these claims allowable and pass the present application to issuance.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at the telephone number listed below. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees, including fees for any extension of time, to Deposit Account No. 50-1901 (Reference No. 22557-3013).

Respectfully submitted,

By:   
Robert M. Hirning, Reg. No. 59,215  
Customer No. 34205  
Oppenheimer Wolff & Donnelly LLP  
45 South Seventh Street, Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 607-7345  
Facsimile: (612) 607-7100  
E-Mail: rhirning@oppenheimer.com



O 5 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

STEVEN LIESKE  
OPPENHEIMER WOLFF & DONNELLY LLP  
45 SOUTH SEVENTH STREET, SUITE 3300  
MINNEAPOLIS, MI 55402

In re Application of:  
BEARDOW, Paul  
U.S. Application No.: 10/500,260  
PCT No.: PCT/GB02/05609  
International Filing Date: 11 December 2002  
Priority Date: 11 December 2001  
Atty Docket No.: 22557-3013/US  
For: METHOD AND APPARATUS FOR  
IMAGE CONSTRUCTION AND  
ANIMATION

DECISION ON RENEWED  
PETITION  
(37 CFR 1.10(d))

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.10" filed 30 July 2007. No additional petition fee is required.

**BACKGROUND**

On 11 December 2002, applicant filed international application PCT/GB02/05609. The application claimed a priority date of 11 December 2002, and it designated the United States. On 19 June 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 14 June 2004 (11 June 2004 was a federal holiday, and 12-13 June 2004 was a weekend).

In June 2004, applicant filed via "Express Mail" a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an executed declaration. The USPTO assigned the submission a filing date of 15 June 2004.

On 10 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) and a filing receipt that identified the 35 U.S.C. 371(c) date as 15 June 2004.

On 30 March 2006, applicants filed a petition under 37 CFR 1.10(d) seeking correction of the 35 U.S.C. 371(c) date to 14 June 2004.<sup>1</sup> The petition asserted that the "Express Mail" envelope containing the materials filed to initiate the present national stage application was deposited in a USPS "Express Mail" drop box on 11 June 2004 (a federal holiday), and that the

<sup>1</sup> Applicant asserts that this petition was originally submitted on 13 September 2005.

filing date for these materials should therefore be corrected to 14 June 2004 (the following Monday, which was the next business day after the deposit).

On 28 March 2007, this Office mailed a decision dismissing applicant's petition for failure to satisfy the requirements of 37 CFR 1.10(d). Specifically, the decision required applicant to provide additional evidence from the USPS to determine when the USPS pick-up was made at the box used by applicant.

On 30 July 2007, applicant filed the renewed petition considered herein (with required two-month extension fee).

### DISCUSSION

The renewed petition includes a statement from counsel that, in a conversation with a USPS mail carrier that services the drop box at issue, the carrier confirmed that "the box always has pick-ups on Monday-Friday." The petition also states that efforts to get additional materials from the USPS have been unsuccessful.

Based on the materials provided herein and with the original petition, it is concluded that applicants have made an acceptable showing that the materials filed to initiate the present international application were deposited with the USPS on 11 June 2004, prior to the final scheduled pick-up on the next business day, that is, 14 June 2004. Accordingly, applicants have satisfied the final requirement for a grantable petition under 37 CFR 1.10(d).

Based on the above, the filing date for the materials filed to initiate the present national stage application is appropriately corrected to 14 June 2004, prior to the expiration of thirty months from the priority date. Because this submission included the materials required to satisfy 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), the correct date under 35 U.S.C. 371(c) for the present application is 14 June 2004.

The Notification of Acceptance and filing receipt mailed 10 December 2004, both of which identified the 35 U.S.C. 371(c) date as 15 June 2004, are appropriately vacated. A corrected Notification of Acceptance and filing receipt will be issued properly identifying the date under 35 U.S.C. 371(c) as 14 June 2004.

### CONCLUSION

The renewed petition under 37 CFR 1.10(d) is **GRANTED**. The materials initiating the present international application, including the basic national fee and the declaration, will be accorded a filing date of 14 June 2004.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 10 December 2004 are hereby vacated.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the issuing of

a corrected Notification of Acceptance and filing receipt that properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 14 June 2004.

*RMR*

Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0459